

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

LandAmerica Financial Group, Inc.,

Debtor.

Case No. 08-35994-KRH
Chapter 11
Jointly Administered

**NOTICE OF MOTION TO CONVERT CASE TO CHAPTER 7 AND NOTICE OF
HEARING**

PLEASE TAKE NOTICE that the United States Trustee has filed with the Court a Motion to Convert Case to Chapter 7 (the "Motion").

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have on in this bankruptcy case. (If you do not have an attorney, you may wish to consult one). Under Local Bankruptcy Rule 9013-1, unless a written response to the Motion is filed with the Clerk of Court and served on the moving party on or before the date set for a hearing on this matter, the Court may deem any opposition waived, treat the Motion as conceded, and issue an order granting the relief requested.

The hearing will be held before The Honorable Judge Kevin R. Huennekens in Courtroom 5000, United States Courthouse, 701 East Broad Street, Richmond, Virginia 23219 on **November 19, 2019 at 2:00 p.m.** The Court will send out separate notice of this hearing to all creditors and parties in interest.

If you do not want the Court to grant the relief sought in the Motion, or if you want the Court to consider your views on the Motion, then on or before the date set for a hearing on this matter, you or your attorney must:

(X) File with the Court, at the address shown below, a written response with supporting memorandum pursuant to Local Bankruptcy Rule 9013-1. You must mail or

Robert B. Van Arsdale, AUST (Va. Bar No.17483)
Shannon Pecoraro, Esq. (Va. Bar No. 46864)
Office of the United States Trustee
701 East Broad Street - Suite 4304
Richmond, VA 23219
Telephone (804) 771-2310
Facsimile (804) 771-2330

otherwise file it early enough so that the Court will receive it on or before the due date identified above.

Clerk of Court
United States Bankruptcy Court
701 East Broad Street – Suite 4000
Richmond, VA 23219

You must also mail a copy to:

Robert B. Van Arsdale, Esquire
Assistant U.S. Trustee
Office of the U.S. Trustee
701 East Broad Street - Suite 4304
Richmond, VA 23219

If you, or your attorney, do not take these steps, the Court may deem any opposition waived, treat the Motion as conceded, and issue an order granting the requested relief without further notice or hearing.

John P. Fitzgerald, III
Acting United States Trustee
Region Four

/s/Robert B. Van Arsdale
Robert B. Van Arsdale

CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2019 a copy of the U.S. Trustee's Motion to Convert to Chapter 7 was served via electronic delivery on all parties receiving electronic notice.

/s/Robert B. Van Arsdale
Robert B. Van Arsdale

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

LandAmerica Financial Group, Inc., et al.,
Debtor

Case No. 08-35994-KRH
Chapter 11
Jointly Administered

**MOTION OF THE UNITED STATES TRUSTEE
TO CONVERT CASES TO CHAPTER 7**

John P. Fitzgerald, III, Acting U.S. Trustee for Region Four (the “U.S. Trustee”), by counsel, respectfully requests that this Court enter an Order Converting this case one under the provisions of Chapter 7 pursuant to §1112(b), and § 105, 11 U.S.C. §§ 101, et seq. (the “Bankruptcy Code”), and, in support thereof, states as follows:

1. This case was filed as a voluntary Chapter 11 on November 26, 2008.
2. On December 22, 2015, the Court entered a Final Decree in this case and the case was closed.
3. On October 31, 2019, the Court ordered this case to be reopened for cause.

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4. The Court has jurisdiction of this proceeding pursuant to 28 U.S.C. §§ 157 and 1334.
3. The United States Trustee files this motion in furtherance of his duties and responsibilities pursuant to 28 U.S.C. § 586 and Bankruptcy Code § 307.

4. Section 1112(b)(1) of the Bankruptcy Code states in relevant part:

Except as provided in paragraph (2) and subsection (c), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate. 11 U.S.C. § 1112(b) (2019).

5. If the U.S. Trustee establishes that cause exists to dismiss or convert, the burden then shifts to the Debtors to prove a defense. If they do not, the case must be dismissed or converted. Relief is mandatory, unless the Debtors meet their burden under section 1112(b)(2). See generally, In re Skeen, Goldman LLP, 2007 WL 4556683, 3 (Bankr.D.Md. Dec 20, 2007)1.

6. The circumstances warranting the conversion of this case to chapter 7 came about after the case was closed. After most of the anticipated expenses were paid, there remained the approximate sum of \$2.8 million dollars, which needs to be protected and ultimately disbursed to those who are determined by the Court to be the rightful recipients.

7. Based on the contents of hearings held in Judge Huenneken's Court on October 16, 2019 and November 5, 2019, circumstances indicate that it is necessary to provide a legal structure that would allow a third party to take over the care and disbursements of the funds remaining in this case.

8. For this reason, the U.S. Trustee requests that this Court convert this case to one under the provisions of chapter 7.

WHEREFORE, the United States Trustee moves this Court to convert to chapter 7. It is also respectfully requested that, insofar as this motion presents no novel legal concepts, and the basis of the motion is found in the pleading itself, the Court waive the requirement for a separate memorandum of law in support of this motion as provided for in Local Rule 9013-1(G).

Respectfully submitted,

JOHN P. FITZGERALD, III
ACTING UNITED STATES TRUSTEE
REGION FOUR

By: /s/Robert B. Van Arsdale
Robert B. Van Arsdale
Assistant United States Trustee

CERTIFICATE OF SERVICE

I certify that on November 6, 2019 service on all attorney users in this case was accomplished through the Notice of Electronic Filing, pursuant to CM/ECF Policy 9 of the United States Bankruptcy Court for the Eastern District of Virginia, Case Management/Electronic Case Files (CM/ECF) Policy Statement, Version 09/04/09.

/s/Robert B. Van Arsdale
Robert B. Van Arsdale